

Notice of Allowability

Application No.

09/851,030

Examiner

KIEU-OANH BUI

Applicant(s)

CRISTOFALO, MICHAEL

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed on 06/11/2007.
2. ☒ The allowed claim(s) is/are 1,4-8,12-70 and 72-79.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

**KIEU-OANH BUI
PRIMARY EXAMINER**

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EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.
2. The application has been amended as follows: (to avoid a 35 USC 112, 1st paragraph)

In claim 78, on line 1, please insert --encoded with computer executable instructions--
after - - A computer data signal --

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Kieu-Oanh Bui
Primary Examiner
Art Unit 2623

KB
August 23, 2007

DETAILED ACTION

Allowable Subject Matter

1. Claims 1, 4-8, 12-63, 65-70, and 72-79 have been allowed.

Reasons for Allowance

2. The following is an examiner's statement of reasons for allowance:

Regarding claim 1, with corresponding system claims 28, 53 and 79 as well as computer readable medium claims 77 and 78, the prior arts of record to Gershman and Egner (either alone or in a combination) fail to teach or suggest each and every feature of the present invention for a method for providing targeted programming to a user outside of the user's home, the method comprising: receiving a user identification associated with a user, the user identification comprising an identifier corresponding to an account number used in a transaction; receiving reception site information to identify a user action and a site at which the user action is taking place; capturing additional user information from the identified user action and the reception site information; updating a user profile to include the captured additional user information; receiving the updated user profile based upon the user identification and the additional user information, the user profile including information characteristic of the user; processing the updated user profile to provide user determinations regarding user actions; selecting a targeted program based on the reception site information and the updated user profile and the user determinations, and providing the targeted program for presentation to a user outside of the user's home.

The Gershman patent fails to disclose or suggest processing the updated user profile to provide user determinations regarding user actions as recited in amended independent claim 1.

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Further, Egner fails to remedy the deficiencies of the Gershman patent, for example, there is no disclosure or suggestion in the Egner patent of the capturing and updating steps, nor is there any disclosure or suggestion of updating the user profile to include the captured additional user information and processing the updated user profile to provide determinations regarding user actions as required by amended independent method claim 1. While the Egner patent appears to disclose a personalized presentation system, the Egner patent focuses on tracking individuals within a particular facility, such as an amusement park or other type of large-area facility (see col. 1, lines 43-54; see also col. 2, lines 42-52). Egner discloses receiving reception site information to identify a user action and a site at which the user action is taking place, there is no disclosure or suggestion in the Egner of the (amended) steps of capturing additional user information from the identified user action and the reception site information and updating a user profile to include the captured additional user information.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

3. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to PTO New Central Fax number:

(571) 273-8300, (for Technology Center 2600 only)

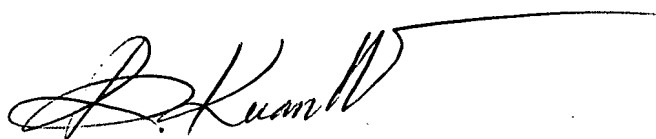
*Hand deliveries must be made to Customer Service Window,
Randolph Building, 401 Dulany Street, Alexandria, VA 22314.*

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4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to "Krista" Kieu-Oanh Bui whose telephone number is (571) 272-7291. The examiner can normally be reached on Monday-Friday from 9:30 AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller, can be reached at (571) 272-7353.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Kieu-Oanh Bui
Primary Examiner
Art Unit 2623

KB
August 23, 2007